IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 13227 of 2004

Between:

V. Satyanarayana S/o. Venkata Ramana
Madugula Mandal, Visakhapatnam District.

..... PETITIONER

AND

1 The Divisional Coop. Officer, Yelamanchili Division,
Visakhapatnam District.
2 The Madugula Primary Agricultural Coop. Society Ltd., Madugula Mandal, Visakhapatnam District.
rep. by its Person -in-Charge.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction, more particularly one in the nature of Writ of Mandamus declaring the impugned proceedings of the Board in Rc.No.1/30-6-2004 dt. 1.7.2004 issued by the 2nd respondent as illegal, arbitrary and violative of Article 14 and 21 of the Constitution of India and contrary to the Sec.116-C of the A.P.Cooperative Societies Act, 1964.

Counsel for the Petitioner:SMT.A.PADMA

Counsel for the Respondent No.1: GP FOR COOPERATION

Counsel for the Respondent No.1: Notice sent not yet returned served

The Court made the following :

O R D E R:

It is the case of the petitioner that on 01.02.1999 he was initially appointed as Clerk in the 2nd respondent-Madugula Primary Agricultural Cooperative Society Limited, Visakhapatnam, and on a representation made by the petitioner, his services were regularized from 30.04.2002 and his name was also included in the staffing pattern. As the matter stood thus, on 01.07.2004, the 2nd respondent issued termination orders against the petitioner, on the ground that appointment of the petitioner is made in violation of Act 2 of 1994 of the Act. Aggrieved by the same, this writ petition is filed by the petitioner.

Section 116-C of the Act is mandatory in nature and all the Societies are bound to fix the staffing pattern, qualifications, pay scales and other allowances for its employees and get the approval of the Registrar of Co-operative Societies, showing the expenditure towards the pay and allowances not exceeding 2% of the working capital or 30% of the gross profit, in terms of the actuals in a year, which ever is less. On an earlier occasion, this Court in W.P.No.3171 of 2003 & batch, dated 30.08.2004 held that if the appointment of the existing staff of the Society are made in conformity with the mandatory provisions of Section 116-C of the Act, it cannot be

said that their appointments are in violation of Act 2 of 1994. As the appointment of the petitioner is not in violation of Section 116-C, read with Rules 28(4) & 36-B of the Rules, his services cannot be terminated.

In view of the above, the impugned proceedings, dated 01.07.2004 are liable to be set aside and are accordingly set aside.

The writ petition is accordingly allowed, directing the 2nd respondent to pass appropriate orders in accordance with the provisions of Section 116-C of the Act. No costs.

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V.ESWARAIAH.J

05.11.2004

tjs

To

1 The Divisional Coop. Officer, Yelamanchili Division,
Visakhapatnam District.
2 Person-in-Charge, Madugula Primary Agricultural Coop. Society Ltd., Madugula Mandal, Visakhapatnam District.

3 2CCs to the G.P. for Co-operation, High Court of A.P., Hyderabad. (OUT)

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